

## SLOT MACHINE IS A LOTTERY.

Justice Crutchfield's Decision Upheld.

JUDGE WITT'S STAND.

He Instructs the Jury to Find Against the Machines.

AN APPEAL MAY BE TAKEN.

Yesterday's Proceedings in the Case of the Commonwealth Against F. Morrella, Which Was Made a Test Case—General Action of Mr. D. C. Richardson.

Acting under instructions from Judge Witt the jury in the case of the Commonwealth against Frank Morrella late yesterday afternoon sustained the decision of Justice Crutchfield, of the Police Court, imposing a fine of \$5 and one day's imprisonment upon the defendant for conducting a game of chance known as a nickel-in-the-slot machine.

Counsel for Morrella were allowed one week in which to decide the question of taking an appeal to the Supreme Court, and the defendant was bailed for that length of time.

This concludes the much talked of slot-machine case, as far as the Hustings Court is concerned, and the machines which have been so actively doing business in various quarters, will be compelled to keep quiet until the Supreme Court can be heard from, providing it is decided to carry the matter to that tribunal.

JUDGE SAMUEL B. WITT.

(Whose instructions to the jury ruled out the slot machines.)

The machine, which once reigned in Morrella's place of business, and gathered a few nickels, was brought from Mr. Forey's office and placed immediately in front of Judge Witt, where it attracted a large share of the attention of the spectators.

Counsel for Morrella were promptly on their feet, as Commonwealth's Attorney D. C. Richardson, but Morrella did not respond when his name was called, and the proceedings were delayed a while until he could be brought into court.

JUDGE WITT'S RULING.

When the case was taken up Judge Witt said that he had decided to overrule the motion of Mr. Meredith to quash the indictment against Morrella, as of opinion that the proper course to pursue was to let the case go to the jury, and to raise the points of law involved in the instructions.

As will be remembered there was a long argument between opposing counsel on the motion to quash the indictment, and the contention of Morrella's counsel being that the nickel-in-the-slot machine was merely a device for gain, and therefore lawful under the act passed by the last Legislature.

The Commonwealth's Attorney, on the other hand, claimed that the machine was a lottery, and that the act of Legislature authorizing it was void, being in conflict with a provision of the Constitution.

NO SPORTS WANTED.

After the jury had been called, Judge Witt stated the nature of the case, and asked whether any individual member of the jury wished to ask any question. Four of the jury members being as follows: Messrs. L. A. Waddell, W. C. Wilkinson, A. T. Williams, M. A. Allen, Henry Austin, W. S. Gunn, Adolph Hartung, David Mittelbacher, B. Lewis, E. H. Spence, B. A. Gayle, and Geo. B. Sydney.

Commonwealth's Attorney Richardson explained the case to the jury, setting forth that it was appealed from the Police Court, and was prosecuted under the statute prohibiting lotteries.

Mr. Smith, of counsel for Morrella, then addressed the jury explaining that the case was a test one and was not so much intended to punish the prisoner as to establish the legality of nickel-in-the-slot machines. He read the act passed by the last Legislature bearing certain machinery, and claimed that the machine in question came within its purview.

Mr. Richardson, in reply, stated that the case was not merely a test, but was designed to break up an evil, and punish the offender.

MR. HALL'S TESTIMONY.

Sergeant John T. Hall, who executed the warrant on Morrella, testified to the facts in the case. He made the arrest on September 10th, and at that time there were eight or ten men playing at the slot machine.

number of nickels put in, but very few came out.

Sergeant H. Claborn Epps was put on the stand as something of an expert in the working of slot machines.

Mr. Epps gave a short, but interesting, dissertation on the subject, to the education of the jury, none of whom had ever indulged in the pleasing pastime of "playing the machine."

"What becomes of the nickel that does not come out?" asked Judge Witt.

"It goes to the house," replied Mr. Epps.

After Mr. Epps was asked a variety of questions, it was agreed for the machine to go in as evidence.

There was a long discussion on the subject of chance, and other things connected with the fascinating game under consideration.

ITS INNER WORKINGS.

At the request of the jury, Superintendent W. H. Thompson then opened the machine, and gave a practical demonstration of its workings.

Many of the spectators gathered around to look into the place where so many of their nickels have gone during the past few months.

After explaining the machine Mr. Thompson was asked this direct question by Mr. Richardson:

"The question of whether a player shall win determined by his skill or by lot or chance?"

"I should say it was chance," was the reply.

At 3 o'clock the court took a recess until 4:30, and when it reconvened Mr. Richardson announced that the Commonwealth rested its case.

SURE OF THEIR MONEY.

The defense then put Mr. J. Campbell on the stand, and he testified that he had at one time owned a machine, and that when the same was out of order or had no money in it, winners were paid out of the cash drawer. Mr. Campbell testified to the same effect.

The defendant, Frank Morrella, was then put on the stand, and testified that he had paid for both State and city licenses for the privilege of running his machine, and that he conducted the same openly.

Mr. H. Pringle was examined on the subject, and created much amusement by declaring that his machine had often gone "broke," and cost him much money.

Mr. C. B. Baker was then put upon the stand, and after testifying that he was familiar with both nickel-in-the-slot machines and roulette tables, or wheels of fortune, was asked to describe the latter.

The Commonwealth's Attorney objected to the question, and Judge Witt sustained his objection.

The same fate befell a number of queries along the same line, and exceptions were noted.

The jury were then sent from the room for a short time, while the instructions submitted by each side were argued.

The attorneys for Morrella had also prepared their instructions as had also the Commonwealth's Attorney, and the latter won the victory, the instructions allowed by Judge Witt being practically a mandate to the jury to find against the defendant. They were as follows:

THE COURT'S INSTRUCTIONS.

The Court instructed the jury that a lottery is any scheme whereby one, on paying money or other valuable thing to another, becomes entitled to receive from him such return in value, or otherwise, some formula of chance may determine, and if the jury shall find from the evidence that the accused did, at the time and place mentioned in the warrant, set up, promote, or that he was concerned in the management or drawing of a lottery, as defined by this instruction, they should find him guilty.

The Court further instructed the jury that, although it may appear from the evidence that the accused had a slot machine, such machine was not intended for the purpose of conducting a lottery, as defined by the first instruction, they should find him guilty.

And if the jury find from the evidence, beyond all reasonable doubt, that the accused did at the time and place mentioned in the warrant use and employ such slot machine for the purpose of conducting a lottery, as defined by the first instruction, they should find him guilty.

THE DEFENSE'S SURRENDERS.

When the instructions had been read, Mr. Meredith briefly addressed the jury, saying that under the rulings of the Court they had no option but to find against the prisoner. He asked them, however, in view of the fact that it was a test case, simply to sustain the verdict of the Police Court—which was a fine of \$5 and one day in jail.

Mr. Richardson made the same remark, saying that he recognized the fact that it would be unjust to single out Morrella from hundreds of others and punish him severely.

The jury returned a verdict in accordance with the instructions without leaving their seats. Counsel for Morrella then made the usual motion to set aside the verdict, which Judge Witt overruled.

The Commonwealth's Attorney then moved for a new trial, and the motion was denied by the Court.

The jury, to the exclusion of the testimony of Mr. Eubank

(Continued on Second Page.)

## THE SINKING OF CERVERA'S FLEET.

Report of the Wainwright Board Published.

NEW YORK'S POSITION.

She Was Nine Miles Off When the Spaniards Came Out.

THE BROOKLYN WAS NEAR THEM

The Chart Shows the Relative Positions of All the Vessels of Both Sides During the Engagement. The New York Was Three Miles Off When the Furor Blew Up.

WASHINGTON, Oct. 20.—The report of the Wainwright Board, convened for the purpose of determining the positions and courses of the ships engaged in the action at Santiago July 3d, was made public today. The report is accompanied by a chart, showing the positions of the ships at seven different times. The first part of the report gives the time of day at which the Spanish vessels left the harbor and also when they were destroyed. The portion of the report dealing with the positions of the ships is as follows:

NINE MILES OFF.

Position No. 1.—9:25 A. M.—When the Maria Theresa came out of the harbor the New York was nine miles east of Morro, accompanied by the first and second squadrons, the latter being two and two-thirds miles from the shore, west of the mouth of the harbor. The Texas was eight-tenths of a mile east of the Brooklyn, and the Oregon a half mile east of the Iowa. The Iowa being three miles directly south of Morro. The Indiana was two and two-tenths miles southwest of Morro, and the Gloucester one mile and four-tenths north of the Indiana and a mile and four-tenths from Morro.

Position No. 2.—9:30 A. M.—When the Pluton came out all the Spanish vessels had come out of the harbor. The Texas was two miles southwest of Morro; the Brooklyn half mile southwest of Morro; the Vizcaya, Colon and Oquendo in the line named behind the Texas, and from four-tenths to half a mile apart.

Position No. 3.—9:35 A. M.—The position of the American vessels was: The New York had moved up two and one-tenths miles westward. The Brooklyn had started north, swerved to the northwest and was turning east, on the verge of making a right and around to the westward course. She was eight-tenths of a mile from the Vizcaya at position No. 2. The Texas had advanced a half mile and was now in a still greater turning to the left she is at No. 2, a half mile directly north of her first position. The Iowa moved by a varying course northward and was a mile and four-tenths from the Vizcaya; the Oregon being two-tenths of a mile behind the Indiana three-tenths behind the Iowa.

Position No. 4.—9:40 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 5.—9:45 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 6.—9:50 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

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Position No. 18.—9:55 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 19.—9:55 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 20.—9:55 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 21.—9:55 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 22.—9:55 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/2 miles from the Texas, a little behind and 1-1/2 miles from and behind the Iowa. The Oregon had pulled up an passed the Texas and Iowa, being a little further inshore than the Texas and a little further east than the Iowa. She was in advance of the Texas, being 1-1/2 miles from that vessel 6-10 of a mile from and directly in the line of the Oquendo, 7-10 of a mile from the Colon and 1-1/2 miles from the Texas and 2-1/2 miles from the Oquendo. The Gloucester had moved up 6-10 of a mile and was just a mile directly south of Morro.

Position No. 23.—9:55 A. M.—Morro turned to run ashore. She was 1-1/2 miles from Morro. The Vizcaya was 2-1/2 miles westward from the Colon the Oquendo 1-1/2 miles west of the Colon the Pluton 1-1/2 miles west of the Colon the Maria Theresa 1-1/2 miles west of the Colon the New York had come within 3 miles of Morro, being southeast of that point; the Brooklyn had made her swing to the westward, crossing her track, and was 2-1/2 miles south and west of the Texas and 1-1/2 miles south of the Iowa. The Iowa was 1-1/2 miles and a little behind the Vizcaya, 1-1/2 miles and a little in advance of the Oquendo. The Texas was 1-1/